

# Court of Appeals, State of Michigan

## ORDER

Kirk Leaphart v State of Michigan

Docket No. 339680

LC No. 17-000130-MZ

Amy Ronayne Krause  
Presiding Judge

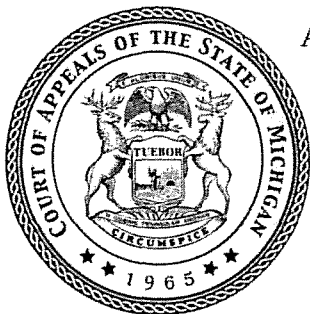
Patrick M. Meter

Brock A. Swartzle  
Judges

---

The Court orders that appellee's motion to remand is GRANTED. This case is REMANDED to the trial court to allow the trial judge to confirm that he represented appellant in connection with an underlying criminal case and, if so, to determine if it is appropriate for him to vacate orders that he has entered in this case and to disqualify himself from further participation in this case so that the merits of the case may be considered de novo by another Court of Claims judge. Thus, the trial court may set aside or amend the order appealed from or any other order entered in this case on remand. MCR 7.208(A)(1). The trial court shall initiate consideration of this matter on remand sua sponte and shall forward a copy of any order entered on remand to this Court immediately upon entry.

We note that, while the present motion to remand is not the type of motion to remand contemplated by MCR 7.211(C)(1)(a), which would be brought by an appellant in relation to issues on which the appellant is seeking relief, we have the authority to entertain this motion to remand filed by appellee under our broad power to "enter any judgment or order or grant further or different relief as the case may require." MCR 7.216(A)(7). It is also immaterial that appellee's status as an appellee was not expressly referenced in the title of the motion to remand, and any technical deficiency with the proof of service for the motion is also immaterial where appellant was obviously served with the motion in light of the answer he filed. We commend appellee for bringing this motion which is plainly not brought to further its narrow interest in this appeal but rather appears manifestly to have been brought in the public interest in the appearance of propriety in the judicial system.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

NOV 20 2017

Date

  
Chief Clerk